State of California
Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105

NOTICE OF PROPOSED REGULATORY ACTION AND NOTICE OF PUBLIC HEARING

File No. RH-395 January 26, 2001

SLAVERY ERA INSURANCE POLICIES

SUBJECT OF HEARING

Notice is hereby given that the Insurance Commissioner will hold public hearings to consider regulations to implement California Insurance Code (CIC) Sections 13810, 13811, 13812 and 13813 (SB 2199 (Hayden)), concerning the collection and reporting of information regarding insurer records of slaveholder insurance policies issued by California insurers and any of their predecessor corporations during the slavery era, which policies provided coverage to slaveholders for damage to, or death of, their slaves.

The statutes require the Commissioner to obtain, and insurers to submit, information regarding records of slaveholder insurance policies issued by insurers and their predecessor corporations during the slavery era, which policies provided coverage to slaveholders for damage to, or death of, their human property. The statutes require insurers to research and report on these policies, including all names of slaves and names of slaveholders contained in their records. The statutes require the Commissioner to make the information available to the public and to the Legislature.

"Descendants of slaves, whose ancestors were defined as private property, dehumanized, divided from their families, forced to perform labor without appropriate compensation or benefits, and whose ancestors' owners were compensated for damages by insurers, are entitled to full disclosure." CIC Section 13813.

The bill states that the records of such insurance provide the first evidence of ill-gotten profits from slavery, which profits in part capitalized insurers whose successors, remain in existence today. The bill states that legislation has been introduced in Congress for the past 10 years demanding an inquiry into the slavery and its continuing legacies. The bill states that the Commissioner is entitled to seek such information from insurers licensed and doing business in California and that the people of California are entitled to significant historical information of this nature.

A companion bill, SB 1737 (Hayden) adds Section 92615 to the California Education Code. In it, the Legislature requests that the University of California assemble a colloquium of scholars to draft a research proposal to analyze the economic benefits of slavery that accrued to slaveholders

and the businesses, including insurers, that reaped the benefits. The statute directs the State Library to participate in this effort and to "examine the economic legacy of slavery in California, including forced slavery, chattel slavery, and indentured servitude." The University of California is requested to make recommendations to the Legislature regarding the findings of the colloquium on or before January 1, 2002.

AUTHORITY AND REFERENCE

California Insurance Code Sections 13810, 13811, 13812 and 13813 require the Commissioner to gather from insurers and make public certain information. These regulations are necessary to carry out the directions of the statute.

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present relevant information orally or in writing, with respect to the matters proposed herein at the following dates, times and locations:

Date: March 13, 2001

Time: 10:30 am

Location: California Department of Insurance

Ronald Reagan State Office Building

Ground Floor Hearing Room

300 South Spring Street Los Angeles, CA 90013

Date: March 16, 2001

Time: 10:30 am

Location: California Department of Insurance

45 Fremont Street

22nd Floor Hearing Room San Francisco, CA 94105

The hearing will continue on the dates noted until all testimony has been completed or until 4:00pm, whichever is earlier.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS

All persons are invited to submit written comments to the Insurance Commissioner on the subject matter of these hearings. Questions regarding the hearings, comments or substance of the proposed action should be addressed to either:

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Leslie Tick, Senior Staff Counsel 45 Fremont Street, 21st Floor San Francisco, CA 94105 415-538-4190 tickl@insurance.ca.gov

Natasha Ray, Senior Staff Counsel 300 Capitol Mall, 17th Floor Sacramento, CA 95814 916-492-3559 rayn@insurance.ca.gov

All written materials must be received by the Insurance Commissioner, at the address listed above, no later than 4:30pm on March 16, 2001. Any written materials received after that time will not be considered.

All persons are all invited to present oral and/or written testimony at the scheduled public hearings.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 3, Article 7.3, Sections 2393 through 2398. The purpose of these regulations is to implement, interpret and make specific provisions of the California Insurance Code, including but not limited to, sections 13810, 13811, 13812 and 13813. These regulations will establish definitions for critical terms used throughout the statutes and will set forth guidelines for the gathering and reporting of the information and records required therein.

SUMMARY OF EXISTING LAW

Existing law requires an insurer doing business in this state that sold certain policies of insurance directly or through a predecessor company to slaveholders providing insurance coverage for damage to, or death of , slaves, to provide certain information to the Insurance Commissioner for entry into the Slavery Era Insurance Registry, as specified.

Insurance policies from the slavery era, issued by a predecessor insurance firm, have been discovered in the archives of several insurance companies, documenting insurance coverage for slaveholders for damage to, or death of, their slaves. These documents provide the first evidence of ill-gotten profits from slavery, which profits, in part, capitalized insurers whose successors remain in existence today.

The Slavery Era Insurance Policies statute (California Insurance Code Sections 13810, 13811, 13812 and 13813), was signed by the Governor on September 30, 2000 and was effective on

January 1, 2001. The law provides that every California insurer shall research and report to the Commissioner with respect to records within its possession or knowledge relating to insurance policies issued to slaveholders that provided coverage for damage to, or death, of their slaves. The insurers are also directed to provide the names of all slaves and slaveholders found in such records. The law provides that the information obtained by the Commissioner will be provided to the Legislature and made available to the public.

The Commissioner now proposes the adoption of these regulations as follows:

STATEMENT OF SPECIFIC PURPOSE

The effect of the specific proposed regulations is as follows:

Proposed Section 2393

This section states the purpose of the legislation. It requires insurers to provide information to the Department of Insurance and requires the Department of Insurance to make that information available to the public and to provide it to the Legislature.

Proposed Section 2394

This section defines terms used in the statute.

Proposed Section 2395

This section specifies who is required to submit a report and how reports are to be submitted for multiple companies in the same holding company..

Proposed Section 2396

This section specifies the format for the report, including the information required, research methodology and reporting of policy data.

Proposed Section 2397

This section sets the due date for reports and lists on or before June 1, 2001 and specifies the further reporting requirements for insurers not in compliance with the regulations by the June 1, 2001 deadline.

Proposed Section 2398

This section establishes a public registry for the names of slaves, names of slaveholders and policy information submitted by the insurers.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE AND LOCAL GOVERNMENT / FEDERAL FUNDING

The Commissioner has determined that there will be no direct cost or savings to, nor will there be

any new program mandates on, any local agency, state agency or school district from the proposal, and that the proposal will not affect federal funding to the State. The proposed regulations will not effect small businesses because insurance companies are by definition not small businesses.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purposes of the regulations or would be as effective and less burdensome to affected private persons than the proposed action. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON HOUSING COSTS

The matters proposed herein will not affect housing costs.

ECONOMIC IMPACT ON BUSINESS AND INDIVIDUALS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner makes an initial determination that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses and individuals to compete with businesses in other states. To the extent the proposed regulations will have an impact on the cost of private persons or businesses directly effected, the cost impact is as a result of the Insurance Code sections being implemented, interpreted or made specific by the proposed regulations. The Commissioner invites interested parties to comment on this issue.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner believes that the proposed regulations will have no impact on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and/or the expansion of businesses currently operating in California. To the extent the proposed regulations will have an effect on the creation, elimination, and expansion of businesses and jobs, the impact is as a result of the Insurance Code sections being implemented, interpreted or made specific by the proposed regulations. The Commissioner invites interested parties to comment on this issue.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. To the extent that the proposed regulations do have an impact on the cost of private persons or businesses directly affected, the cost impact is a result of the Insurance Code sections being implemented, interpreted or made specific by the proposed regulations. The Commissioner invites all interested parties to comment on this issue.

IMPACT ON SMALL BUSINESSES

There is no adverse impact on small businesses because insurance companies are not small businesses.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposal will not impose any non-discretionary cost or savings on local agencies.

COSTS OR SAVINGS TO STATE AGENCIES

The proposal will not result in any cost or significant savings to state agencies.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commenting with Section 17500) of Division 4 of the Government Code would require reimbursement.

IMPACT ON COMPETITIVENESS

The proposal will not have an adverse impact on competition or competitiveness.

PLAIN ENGLISH

The proposal is in plain English except tot he extent that technical terms could not be avoided. Those technical terms re defined in plain English.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an "Initial Statement of Reasons" which sets forth the reasons for these regulations. The Initial Statement of Reasons, together with the text of the proposed regulations, and this Notice of Proposed Action are available for inspection or will be provided at no charge upon request to the contact person listed above.

ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy or direct questions about the proposed regulations, the statement of reasons therefor, the information upon which the proposal is based, and any supplemental information, contained in the rulemaking file, from the contact person listed above. Upon prior request, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105 between the hours of 9:00 am and 4:30 pm, Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's mailing list.

MODIFIED LANGUAGE

If the regulation adopted by the Department differs from, but is sufficiently related to, the action proposed, it will be available to the public for at least 15 days prior to the date of adoption.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting either Leslie Tick or Natasha Ray at the addresses listed above.

AVAILABILITY OF THE DOCUMENTS ON THE INTERNET

Documents are not yet available on the Department's website.

Dated: January 18, 2001	
	HARRY W. LOW, Insurance Commissioner
	By: ————————————————————————————————————

Deputy Chief Counsel

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